

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Group Art Unit 3752

In re:

Patent Application of

Howard Anthony Barnes

Serial No. 09/824,354

Filed: April 2, 2001

Examiner: Christopher S. Kim

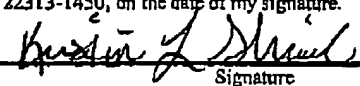
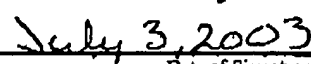
Title: "METHOD AND APPARATUS FOR GENERATING WATER SPRAYS, AND  
METHODS OF CLEANING USING WATER SPRAYS"

COMMUNICATION TO EXAMINER

Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

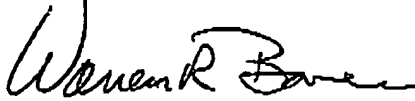
The undersigned received an advisory action mailed June 23, 2003 in the above-identified application (copy attached) The action indicated the response to the Final Rejection filed June 11, 2003 was non-responsive because applicants did not respond to the rejection under 35 USC 112, second paragraph. However, in the Final Rejection mailed April 8, 2003 (copy attached) there was no rejection under 35 USC 112, only a rejection under 35 USC 103 to which applicants fully responded. It is noted that Applicants received duplicate copies of the Final Rejection and would speculate that perhaps the USPTO file copy was included by mistake so that the Examiner was looking at the previous office action (which did include a rejection under 35 USC 112, which applicants have previously overcome by amendment).

I, Kristin L. Shimeck, hereby certify that this correspondence is being sent by facsimile to (703) 872-9303 Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date of my signature.	
	Signature
	Date of Signature

# 15  
NB 7-9-03  
FAX RECEIVED  
JUL 03 2003  
GROUP 3700

The Examiner is requested to review the file and issue a Notice Of Allowance, if appropriate, or other office action on the merits to which applicants are believed entitled.

Respectfully submitted, .



Warren R. Bovee

Registration No. 26,434

Date: July 3, 2003

Attorney Docket No.: C7547 US

JohnsonDiversey, Inc.  
Intellectual Property Department  
8310 16<sup>th</sup> Street - P.O. Box 0902 (MS-509)  
Sturtevant, WI 53177-0902  
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FAX: 262-631-4021



## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,354	04/02/2001	Howard Anthony Barnes	C7547(C)	7177

201 7590 06/23/2003

UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
EDGEWATER, NJ 07020

EAS

EXAMINER

KIM, CHRISTOPHER S

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 06/23/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.



**Advisory Action**

Application No.

09/824,354

Applicant(s)

BARNES ET AL.

Examiner

Christopher S. Kim

Art Unit

3752

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 708.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☒ Other: See Continuation Sheet

  
 Christopher S. Kim  
 Examiner  
 Art Unit: 3752

06/27/2003 10:53 AM 2:26PM JUL 3 2003 10:53 AM 2:26PM LAW/COMMUNICATIONS PATENT DEPT

NO. 399 P. 6/12

Application No.

Continuation Sheet (PTO-303)  
09/24,354

Continuation of 10. Other: The amendment filed 11 June 2003 is non-responsive. No response is given to the rejection under 35 USC 112, second paragraph.



## UNITED STATES PATENT AND TRADEMARK OFFICE

APR 24 2003

UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,354	04/02/2001	Howard Anthony Barnes	C7547(C)	7177

201 7590 04/08/2003

UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
EDGEWATER, NJ 07020

EXAMINER

KIM, CHRISTOPHER S

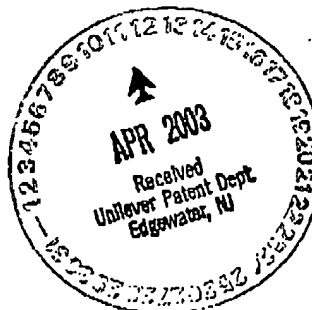
ART UNIT

PAPER NUMBER

3752

DATE MAILED: 04/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Final

Response Due: 6-8-03

1-6 no Rem

4-24-03



**Office Action Summary**

Application No.

09/824,354

Applicant( )

BARNES ET AL.

Examiner

Christopher S. Kim

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 February 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 13-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**Office Action Summary**

Application No.

09/824,354

Applicant(s)

BARNES ET AL.

Examiner

Christopher S. Kim

Art Unit

3752

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Period for Reply

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- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other;



Application/Control Numb r: 09/824,354  
Art Unit: 3752

Page 2

**DETAILED ACTION*****Response to Amendment***

1. Amendment filed February 21, 2003 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

3. Claims 1-12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Utter et al. (6,126,961).

Utter et al. discloses a method of generating a water spray using nozzle 34 and air discharge tube 21. Utter et al. discloses various air flow speeds in column 1, lines 40-55 and column 3, lines 50-60. Applicant discloses in the specification, page 9, line 17, "nozzle 6, which is also of conventional design". It would have been obvious to a person having ordinary skill in the art at the time of the invention to have used conventional nozzles and various fans speed (air flow speed) in the device of Utter et al. for desired spray parameters and characteristics dependent on application.

***Response to Arguments***

4. Applicant's arguments filed February 21, 2003 have been fully considered but they are not persuasive.

Application/Control Number: 09/824,354  
Art Unit: 3752

Page 3

In response to applicant's argument that one would not be motivated to use the conventional nozzle (as disclosed by applicant) in the device of Utter et al. '961 because '961 discloses using an atomizing spray heads (col. 4, lines 6-7) that provide a finely divided, atomized water vapor mist, '961 does not preclude the use of applicant's disclosed conventional nozzle. '961 does not define the term "finely divided water vapor" to any particular droplet size nor does it exclude any particular droplet size.

In response to applicant's argument that the Examiner cannot use applicant's own disclosure to show obviousness, see MPEP 2129. Applicant recites, in the specification on page 9, line 17, "nozzle 6, which is also of conventional design."

### **Conclusion**

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Application/Control Number: 09/824,354  
Art Unit: 3752

Page 4

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703) 308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Christopher S. Kim  
Examiner  
Art Unit 3752

CK  
April 7, 2003

**JohnsonDiversey**

Clean is just the beginning.



09/824354

**Fax Transmission Sheet**

July 3, 2003

**TO: Examiner Christopher Kim  
U.S.P.T.O.****FAX NUMBER: 703-872-9303****FROM: Warren R. Bovee  
JohnsonDiversey, Inc.  
8310 16th Street  
P.O. Box 902  
Sturtevant, WI 53177-0902  
Phone Number: 262-631-4196  
Fax Number: 262-631-4021****FAX RECEIVED  
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If all pages are not received, please contact Kristin Shimeck at 262-631-4579.

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